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REPORT ON OTHER MEETINGS AND ACTIVITIES

Letter dated 2 April 1993 from the Permanent Representatives of Denmark, Norway and Sweden and the Chargé d'affaires of Finland and Iceland to the United Nations Office at Geneva addressed to the Assistant Secretary-General for Human Rights

We, the Heads of the Nordic Permanent Missions in Geneva, have the honour to submit for information a report from the Ninth Nordic Seminar on Human Rights. The Seminar was held by the Nordic Institutes of Human Rights in Lund, Sweden, on 18-20 January 1993, and is a satellite meeting to the 1993 World Conference on Human Rights.

The Seminar was devoted entirely to discussion of issues which, in the view of the participants, should be emphasized at the upcoming World Conference on Human Rights. The report records views expressed by members of the Nordic human rights community at that meeting, and is a continuation of the process started at the Eighth Nordic Seminar in Iceland in June 1991 (the report is available in document A/CONF.157/PC/7).

We respectfully request that the enclosed report be issued, for information purposes, as a document of the fourth session of the Preparatory Committee.

GE.93-12730

Report from the Ninth Nordic Seminar on Human Rights, held by the Nordic Institutes of Human Rights at Lund, Sweden, 18-20 January 1993

INTRODUCTION

1. The Ninth Nordic Human Rights Seminar was devoted entirely to the discussion of issues which, in the view of the participants, should be emphasized at the 1993 World Conference on Human Rights. The report's chapter headings highlight some of the issues:

- human rights system-wide in the United Nations,
- improvement and concolidation of implementation procedures,
- human rights and democracy,
- administration of justice,
- group rights and ethnic conflicts,
- relationship between human rights, humanitarian law and refugee law,
- human rights and development cooperation, and
- the reinforcement of certain standards.

Two issues came up regularly under all of these themes: the status and the rights of women and the role of non-governmental organizations.

3. References are repeatedly made in this report to the equal enjoyment of all human rights by men and women and to the role women should and could play in the human rights field, often with an emphasis on self-help. Women are in a unique position amongst disadvantaged members of society inasmuch as they make up one half of the population and thus, at least as far as democratic countries are concerned, one half of the electorate. The World Conference must address the status and the rights of women in a constructive, substantial and forceful way.

4. The role of non-governmental organizations came up in connection with all of the above-mentioned themes. The World Conference should firmly recognize the contributions and elevate the level of access by non-governmental organizations at all stages within the United Nations system.

I. HUMAN RIGHTS SYSTEM-WIDE IN THE UNITED NATIONS

5. A large number of institutions within the United Nations system, including all of the principal organs and many of the specialized agencies, are directly or indirectly working in the field human rights. The same is true for the regional organizations. It is important that this work be expanded, coordinated and consistently based on the international human rights standards.

6. Recommendations to the World Conference made under this item included:

- firmly placing human rights as a priority task within the United Nations and in its system-wide operations, in accordance with the overall purposes of the Organization as listed in article 1 of the Charter. The promotion and protection of human rights as a means of fostering and building peace and security within and among states should be recognized;

- encouraging universal ratification or accession to international human rights treaties covering civil, cultural, economic, political and social rights. Concrete steps should be taken to this end, including issuing lists of non-ratifying states. Further steps could be modelled on the efforts undertaken by the International Committee of the Red Cross with regard to the Geneva Conventions and Protocols;

- carrying out a review of reservations made to human rights treaties with the view of challenging the validity of reservations incompatible with and detrimental to the objectives and purposes of the texts concerned;

- the normative and operational sides of human rights work should be firmly linked. Human rights assessment statements accompanying all development programmes and projects originating within the United Nations system could be one part of such integration, together with subsequent human rights evaluation statements. Bilateral and multilateral development agencies and financial institutions should draw upon the expertise of the human rights programmes of the United Nations, the International Labour Organisation and UNESCO on standards and case law;

- encouraging focused assistance to groups and individuals facing particular problems or discrimination, such as disabled persons, refugee women and children, street children and the girl child, bonded labourers and HIV-infected persons, in order to empower them in the improvement and conduct of their own lifes, including health and working conditions;

- creating a data base which could serve all the human rights actors within the United Nations system. A data base is a necessary and overdue tool for linking the normative and operational work, for increasing the capacity of verification and early warning, for integrating the human rights dimension into development cooperation activities, and for enabling effective networking with non-governmental organizations. The UNHCR Centre for Documentation on Refugees, with an existing and extensive data base including human rights information, could become a joint operation of UNHCR and the Centre for Human Rights. Reference was also made to the proposal from the Eighth Seminar in Iceland about the establishment of a United Nations Human Rights Institute (A/CONF.157/PC/7, para. 81);

- underlining the need for much increased cooperation and coordination between all the actors in human rights work, not least in the fields of implementation procedures and development cooperation;

- requiring a substantial increase or rather a quantum leap in the resources of the Centre for Human Rights, both through the allocation of additional resources from the regular budget of the United Nations and through voluntary contributions, so that the Centre will enjoy the authority and capacity necessary for carrying out its mandated and foreseen assignments. The Centre should be upgraded to a Department within the Secretariat;

- identifying ways and means of strengthening the role and potential of the technical assistance and advisory services programmes of the Centre for Human Rights, including in particular its contribution to bills of rights and legislation, administration of justice projects, and state reports. In these fields, the Centre could often act as a broker between requesting countries and the development agencies;

- authorizing the Centre for Human Rights to place representatives in regional and sub-regional offices of the Organization in order to, inter alia, improve communication between the human rights expert bodies and other organs involved in human rights work. At the same time, the Centre should establish regional bureaus at Geneva in order to develop competence, expertise and cross-fertilization of information which in turn would facilitate its work with regard to technical assistance, advisory services and the reporting obligations;

- making sure that human rights work within the Secretariat, currently managed outside the Centre for Human Rights, such as women's rights, criminal justice and treatment of offenders, should become part of the mainstream human rights debates and operational activities;

- deciding which and what kind of organ should coordinate human rights work within the Organization, take initiatives and provide assistance in the system-wide formulation of strategies for strengthening human rights, participate in and facilitate the participation of human rights organs and experts in peace-keeping and peace-building efforts by the United Nations, and help prevent and investigate human rights violations. The person in charge, whatever the title, that is a High Commissioner, a Special Commissioner or the head of the Centre for Human Rights, should be able to carry out his or her functions promptly, impartially and objectively;

- incorporating the Universal Declaration of Human Rights into the United Nations Charter, as a second annex after the Statute of the International Court of Justice;

- elevating the status of the Commission on Human Rights to that equivalent to a principal organ of the United Nations reporting directly to the General Assembly;

7. The World Conference should stress the importance of constructive interaction between international and regional organizations, with regard to both standards and implementation, based on the principle of universality of all human rights. The Conference should also encourage the effective use of regional and sub-regional organizations and their human rights organs for the promotion and protection of human rights.

8. The interrelationship between human rights and ecological rights is clear. Safeguarding and improving the environment will positively affect many human rights, including the rights to life, food and health. Sustainable development, which at the same time enables all human beings a higher quality and security of life, is necessary in order to protect the environment. The World Conference may wish to address these issues, not least the vital roles played by indigenous peoples who are the traditional guardians of safe environmental conduct.

II. IMPROVEMENT AND CONSOLIDATION OF IMPLEMENTATION PROCEDURES

9. While recognizing that the primary responsibility for the implementation of all human rights rests with governments and the legislative and judicial authorities at the national level, it was stressed under the various themes addressed in this report that international and regional organizations have a significant role to play in encouraging and monitoring both promotion and protection.

10. Among the suggestions directed to the World Conference were:

- incorporation of human rights texts in national legislation;

- the need to concentrate on hard-core and persistent human rights problems, such as summary executions, torture, disappearances and violence against women;

- the need to assure fact-finding and investigative operations when massive violations of human rights occur in any country or region of the world. The Secretary-General and the Commission on Human Rights, so authorized, should be encouraged to bring these situations to the attention of the Security Council whenever they may endanger international peace and security;

- the need to support special emergency procedures of the Commission on Human Rights in order to address potential conflict situations with prevention in mind;

- the preparation and adoption of an optional protocol to the Covention on the Elimination of All Forms of Discrimination against Women, allowing for the right of petition;

- encouragement to women to make more use of existing procedures with regard to equal enjoyment and non-discrimination clauses in existing instruments, such as the complaints procedure under the Optional Protocol to the International Covenant on Civil and Political Rights;

- the preparation and adoption of an optional protocol to the International Covenant on Economic, Social and Cultural Rights, allowing for the right of petition,

- streamlining of reporting obligations under human rights conventions and appropriate responses to the proliferation of implementation procedures in the United Nations system. Assistance to states in fulfilling reporting obligations, when so requested, should be readily available from the United Nations Centre for Human Rights;

- the establishment of a monitoring mechanism for the rights of disabled persons through the appointment of a Special Rapporteur by the Commission on Social Development, together with a panel of experts with representation from the organizations of disabled persons; and

- follow-up to decisions and recommendations of international and regional human rights monitoring organs.

III. HUMAN RIGHTS AND DEMOCRACY

11. It was noted that this may be the first time in history that the majority of all states claims that democracy is their form of government. Seminar participants welcomed the statement that Africa "has chosen the path of democracy", made in the Tunis Declaration adopted by the African Regional Meeting in November 1992.

12. It was also noted that the theme of the report of the Director-General of the International Labour Office to the 79th session of the International Labour Conference, in 1992, was "Democratisation and the ILO". Speakers at the Conference emphasized that certain basic principles had to be respected in any country which claimed to be democratic: the primacy of law, individual and collective freedoms guaranteed by law, the equality of all before the law, recognition of and respect for the diversity of opinions, creeds and cultures, and the full and free participation of all citizens in the political, economic and social life of their country. For democracy to have a real meaning, political freedoms must be accompanied by certain economic and social rights, including many of those laid down in the international labour standards.

13. Democracy is a human right in itself, as was emphasized at the Eighth Nordic Seminar in Iceland, in particular guarantees for the freedoms of speech, association and assembly and the elimination of all forms of discrimination based on race, sex, language or religion. As to the promotion and protection of democracy, issues raised at the Ninth Seminar included the following:

- the recognition that the rule of law and economic, social and cultural rights are co-pillars in a democracy and that a society's democratic nature is endangered if poverty or unemployment reaches unbearable levels;

- incorporation of human rights treaties in national legislation, as has been done in Denmark and Finland, in order to provide standards for judges to enhance the protection at the domestic level;

- the respect for genuinely equal political rights for minorities and indigenous peoples. A decision-making process is truly democratic when all members of society have not only the formal right but also the factual possibility of effective participation;

- the importance of a political and legislative framework in which civil society organizations and other non-governmental organizations can operate freely and effectively;

- more orderly methods for the transition from non-democratic regimes and mechanisms for transfer of power, with emphasis on national reconciliation and the building of pluralistic and democratic societies. The role for and capability of local, regional and international intergovernmental and non-governmental organizations in observing elections and referenda and engaging in follow-up thereto should be strengthened; and

- the important place of development cooperation in the movement towards democracy and universal respect for human rights.

14. It is a matter of special concern to the Nordic human rights community that, notwithstanding the democracy trends, women's rights and economic and social rights have been marginalized on the human rights agenda. Guarantees for equal political representation of men and women, including affirmative action, and enforcement methods for economic and social rights are essential for democratic developments.

IV. ADMINISTRATION OF JUSTICE

15. Existing international and regional standards on the administration of justice include rules about dissemination of the laws, law enforcement, the prosecution, legal aid services, the independence of the judiciary and of lawyers, the conduct of the trial, the treatment of detainees and prisoners and the facilities in which they are kept, and other national institutions. Seminar participants welcomed the pronouncement that "Administration of justice and the independence of the judiciary are crucial to the full realization of human rights" in the Tunis Declaration of November 1992 and similar elaborations in the Joint Statement on the Administration of Justice and Human Rights by Attorneys-General and Ministers of Justice from Central, Eastern and Southern Africa, made in Nairobi in October 1992.

16. A series of proposals were made with regard to the more effective and more efficient administration of justice:

- absolute guarantees for the right and access to a fair trial, including positive state measures and the necessary budgetary resources. Article 14 of the International Covenant on Civil and Political Rights should be added to the non-derogable rights listed in article 4 of the same Covenant, as procedural safeguards are particularly needed in times of national emergencies and crisis situations;

- recognition that the effective administration of justice requires substantial resources. The costs involved must be reflected in national budgets;

- methods of enhancing the independence of the judiciary and of lawyers, coping with threats to judges, and strengthening legal aid services, including human rights education and training for all concerned;

- national and international programmes to combat torture and other cruel and inhuman treatment, including the death penalty and disappearances.

International human rights organs should be able to carry out on-site inspections of the various detention institutions and prisons along the powers allocated to the European Committee against Torture and Other Inhuman or Degrading Treatment or Punishment;

- urgent attention to the human rights of women in the administration of justice, including women-specific standards on female prisoners and abolition of women-specific criminal offenses. The latter would involve offenses concerning pregnancy and adultery which cannot be reconciled with the fundamental right to equality between men and women;

- dissemination of international, regional and national standards to the populace and translation of these texts into all national and local languages. Disabled persons should also receive the human rights instruments in a form/language accessible to them;

- systematic inclusion of multilateral and bilateral projects relating to the administration of justice in programmes of development cooperation, as called for in the Tunis Declaration;

- additional research activities about the administration of justice, including alternative methods of mediation and conflict resolution outside the court room, such as those represented by traditional and local customs, as long as access to judicial review is available;

- strengthening of the procedures and other tools available to international and regional monitoring organs, including follow-up to their decisions and recommendations; and

- networking of and cooperation between all the relevant institutions.

V. GROUP RIGHTS AND ETHNIC CONFLICTS

17. Ethnic conflicts are multiplying in most parts of the world. The dangers to national unity and territorial integrity of states are evident. So are the threats to international peace and security. Participants in the Seminar expressed the view that the enhanced protection of the rights of minorities and of indigenous peoples would help reduce tensions and contribute to the maintenance of peace while at the same time improving the quality of life for the groups concerned.

18. The General Assembly adopted in 1992 a Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities. The Secretary-General has acknowledged the importance of this Declaration in his 1992 report entitled An Agenda for Peace (document A/47/277 and S/24111). The Conference on Security and Cooperation in Europe has established the post of a High Commissioner for National Minorities. The Council of Europe adopted in 1992 a Charter on Regional and Minority Languages. Case law on minority rights is growing and a number of studies and reports is forthcoming, including the report to the Sub-Commission on Prevention of Discrimination and Protection of Minorities by Special Rapporteur Asbjorn Eide on constructive national arrangements for minorities.

19. In 1989, the International Labour Organisation adopted Convention No. 169 concerning the Rights of Indigenous and Tribal Peoples in Independent Countries. The United Nations has proclaimed 1993 as the International Year of the World's Indigenous Peoples. Both the United Nations and the Organization of American States are preparing new standards on the rights of indigenous peoples.

20. These responses are encouraging, but insufficient. Proposals for strengthening the protection of minorities and of indigenous peoples, with an emphasis on the

realization of equality by means of non-discrimination and affirmative action and on conflict prevention, included:

- recognition of the relationship between minority rights and the rule of law and democracy, with human rights applied on an universal, objective and non-selective basis;

- emphasis on affirmative action as necessary means of achieving equality, drawing on standards laid down in instruments like the International Convention on the Elimination of All Forms of Racial Discrimination and the new Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities;

- the possibility of preparing international and regional standards providing for autonomy or self-government in local affairs within the countries concerned;

- granting a role to the groups themselves in contributing to state reports under existing treaty obligations and increased access for groups to the policy-making and monitoring bodies, with a possible model in the openness and success of the United Nations Working Group on Indigenous Populations;

- the appointment of a thematic Special Rapporteur or working group of the Commission on Human Rights with a minority rights mandate, as proposed by the then Under-Secretary-General Jan Martenson at the 1992 session of the Commission. In addition to the monitoring of existing standards, the mandate should encompass facilitation of dialogue, confidence-building and mediation;

- development of methods for conflict prevention and conflict resolution, possibly by means of advisory services programmes, in which the groups have a say;

- human rights education for both majorities and minorities; and

- respect for minority and indigenous peoples' rights and facilitation of their participation in the planning and execution of development cooperation projects affecting them.

21. The Seminar took note that the World Conference will take place in the middle of the International Year for the World's Indigenous Peoples. The celebration of the Year must not focus on ceremonial and symbolic aspects, but lead to meaningful changes for the better in the life and status of indigenous peoples. The World Conference should confirm the obligations of the international community in this respect.

VI. THE RELATIONSHIP BETWEEN HUMAN RIGHTS, HUMANITARIAN LAW AND REFUGEE LAW

22. The overall relationship between human rights, refugee law and humanitarian law was emphasized. The drawing of distinct border lines between these subjects is artificial. These issues demand attention because of the many ongoing internal and external refugee flows and the acts of racism and racial discrimination often meeting the victims. Some of these events have resulted in responses by the international community; these responses in turn call for scrutiny and evaluation.

23. Issues for consideration under this heading would include:

- adoption of the Turku Declaration of Minimum Humanitarian Standards which was prepared by an expert meeting in Turku, Finland, in December

1990, or of a similar code of conduct. The text should contain non-derogable standards of both humanitarian law and human rights and be applicable to all situations, during peacetime as well as wartime, particularly in situations of internal violence, disturbances, civil strife, tensions and non-declared public emergencies;

- the role and responsibility of the United Nations in the dissemination and promotion of humanitarian law;

- the responsibility of the United Nations in the implementation of humanitarian law, irrespective of whether the conflict at stake is an international armed conflict, a non-international armed conflict or a situation of internal strife. A reporting system should be established for states to list the measures adopted and Special Rapporteurs should be appointed for specific conflicts. Furthermore, a method of authoritative decision-making about the type of conflict is needed because states tend to minimize conflicts and thus refuse to accept humanitarian law principles. In situations which may be seen as civil war, for example, states argue that they are only fighting terrorist activities;

- encouragement to a broader range of non-governmental organizations to increasingly monitor respect for and breaches of humanitarian law as in the fields of human rights and refugee law;

- the different causes of refugee flows and country-of-origin situations, as well as an effective early warning mechanism and making use of confidence-building measures;

- the role and responsibility of international human rights organs concerning the fate of internally displaced persons, including a monitoring mechanism reporting to the Commission on Human Rights;

- coordination of and cooperation in humanitarian relief activities undertaken by intergovernmental organizations. Human rights standards, refugee law and humanitarian law should provide constant guidance in such activities; and

- the prosecution and trial, either before a national or an international court, of persons responsible for grave violations of human rights and humanitarian law, including genocidal acts, crimes against humanity and war crimes. IThe International Law Commission should be urged to complete its preparation of a Draft Code of Offences against the Peace and Security of Mankind and the possible establishment of an International Criminal Court should be examined.

VII. HUMAN RIGHTS AND DEVELOPMENT COOPERATION

24. The term 'development' concerns both developed and developing countries and it is not a static notion. There is no single model for development and institution-building with regard to human rights, and it was underlined that lessons can be drawn from the challenges, obstacles, successes and failures which central policy-makers in all parts of the world have experienced. One of these lessons is that the realization of all human rights, with the individual as the central subject, is crucial to development everywhere.

25. Issues brought up at the Seminar concerning the relationship between human rights and development included:

- the International Bill of Human Rights constitutes a basis, together with other human rights instruments, for creating the conditions necessary for sustainable development.

- the free, meaningful and broadly based participation of all segments of the population in the political, economic, social and cultural development of society, on a democratic and non-discriminatory basis. Equal participation by women should be highlighted;

- the rule of law, good governance, transparency in policy- and decision-making and the establishment of national institutions conducive to the realization of human rights, including that of the ombudsman;

- an appeal to governments, multilateral development agencies and financial institutions to considerably increase the resources devoted to building well-functioning legal systems able to protect human rights and to national instutions working in this area. Bilateral and multilateral actors should make the realization of human rights provided for in the international and regional instruments an integral part of their programmes. Cooperation between all the parties should be based on dialogue and transparency and it should take fully into account the comparative advantages of bilateral and multilateral assistance;

- the establishment of comprehensive programmes, including resource banks of information and personnel with expertise relating to the srengthening of the rule of law and of democratic institutions; and

- encouragement to governments and intergovernmental organizations to delegate more extensive functions to non-governmental organizations as executive agencies for human rights projects, as designers for and planners of various projects, and as protectors for human rights considerations in other projects.

VIII. THE REINFORCEMENT OF CERTAIN STANDARDS

26. Seminar participants emphasized implementation and operational activities relating to existing standards rather than the continuation of standard-setting activities. At the same time, it was recognized that some issues deserve additional or strengthened standards. These include the rights of indigenous peoples, human rights defenders and disabled persons.

27. Several draft texts with proposed standards were presented to the Seminar. They are not annexed to this report as all of them have been or are being made available to the relevant international organizations through other channels. They concern the following issues:

- the Poznan Declaration on Academic Freedom, adopted by an expert meeting held at the Human Rights Centre in Poznan, Poland, in January 1993;

- a draft resolution concerning the dissemination of human rights instruments, prepared at the Raoul Wallenberg Institute, Sweden, and based on parallel provisions in humanitarian law instruments; and

- a proposal for revising the Principles of Medical Ethics relevant to the Role of Health Personnel, Particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as adopted by the General Assembly in resolution 37/194 on 18 December 1982. The proposal was tabled by the

Ministry of Foreign Affairs of Denmark in cooperation with the Danish Center of Human Rights and with non-governmental organizations.

IX. ABOUT THE SEMINAR

28. The Ninth Nordic Seminar on Human Rights in Lund was launched in order to contribute to the preparations for the World Conference and thus continue a process started at the Eighth Seminar in Iceland in June 1991 (the report of that Seminar is available in document A/CONF.157/PC/7).

29. About 70 participants from Denmark, Finland, Iceland, Norway and Sweden attended the Ninth Seminar. The participants who acted in their individual capacities were drawn from ministries and other governmental organs, non-governmental organizations, the legal profession, the academic community and the human rights institutes in the Nordic region. The United Nations Centre for Human Rights, the Office of the United Nations High Commissioner for Refugees and the Austrian Government were represented by observers.

30. Ms. Boel Flodgren, Vice-Chancellor of the University of Lund, Mr. Jan Martenson, the former Under-Secretary-General for Human Rights and initiator of the World Conference, Mr. Jakob Th. Moller as the representative of the United Nations Centre for Human Rights, and Mr. Goran Melander, Director of the Raoul Wallenberg Institute of Human Rights and Humanitarian Law, delivered the opening addresses.

31. Goran Melander served as Chairman and Gudmundur Alfredsson as Rapporteur of the Seminar. Lauri Hannikainen, Haakon Hjelde, Morten Kjaerum, Anita Klum, Ragne Birte Lund, Ann Marie Pennegard and Martin Scheinin were chairmen and rapporteurs of working groups.